

**BOROUGH OF HARRINGTON PARK
BOND ORDINANCE NUMBER #759**

BOND ORDINANCE AMENDING AND RESTATING BOND ORDINANCE NUMBER 755 (WHICH PROVIDES FOR VARIOUS 2021 CAPITAL IMPROVEMENTS) HERETOFORE FINALLY ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HARRINGTON PARK, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY (THE "BOROUGH") ON MAY 25, 2021, TO INCREASE THE APPROPRIATION TO \$1,385,987 (INCLUDING INCREASING GRANTS TO \$291,666), TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES OF THE BOROUGH TO \$1,042,210, TO INCREASE THE DOWN PAYMENT TO \$52,111 AND TO AMEND THE DESCRIPTION OF THE IMPROVEMENTS AND PURPOSES AUTHORIZED THEREBY

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HARRINGTON PARK, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

SECTION 1. The bond ordinance of the Borough of Harrington Park, in the County of Bergen, State of New Jersey (the "Borough"), finally adopted by the Borough Council of the Borough on May 25, 2021, numbered 755 and entitled, "BOND ORDINANCE PROVIDING FOR VARIOUS 2021 CAPITAL IMPROVEMENTS, BY AND IN THE BOROUGH OF HARRINGTON PARK, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY; APPROPRIATING \$1,269,321 THEREFOR (INCLUDING A NEW JERSEY DEPARTMENT OF TRANSPORTATION GRANT IN THE AMOUNT OF \$200,000) AND AUTHORIZING THE ISSUANCE OF \$1,018,400 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF" (the "Original Ordinance"), is hereby amended and restated in its entirety (including increasing the appropriation to \$1,385,987 and increasing Grants to \$291,666), increasing the authorization of bonds or notes to \$1,042,210, increasing the down payment to \$52,111 and amending the description of the improvements and purposes authorized thereby), as follows:

"SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as general improvements or purposes to be undertaken by the Borough of Harrington Park, in the County of Bergen, State of New Jersey (the "Borough"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$1,385,987, said sum being inclusive of (i) a grant expected to be received from the New Jersey Department of Transportation in the amount of \$200,000 (the "NJDOT Grant"), (ii) a grant expected to be received from the Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) Program through the Bergen County Division of Community Development in the amount of \$91,666 (the "CDBG Grant", and together with the NJDOT Grant, collectively, the "Grants"), and (iii) a down payment in the amount of \$52,111 now available for a portion of said improvements or purposes required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and

supplemented (the "Local Bond Law"), and now available therefor by virtue of a provision or provisions in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes. Pursuant to N.J.S.A. 40A:2-11(c) of the Local Bond Law, no down payment is required for a portion of the improvements or purposes set forth in Section 3 hereof, as a \$291,666 portion of the costs of such improvements or purposes is expected to be funded by the Grants.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$1,385,987 appropriation not provided for by the Grants or said down payment referred to in Section 1 hereof, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$1,042,210 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in a principal amount not exceeding \$1,042,210 are hereby authorized to be issued pursuant to, and within the limitations prescribed by, the Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said bonds or notes are to be issued is the 2021 Capital Improvement Program, which includes, but is not limited to, (i) the acquisition and installation, as applicable, for use by the Fire Department, of (A) communications and other equipment, including, but not limited to, pagers, thermal imaging cameras, an in-vehicle Knox Box System, fire hydrant markers and various parts and accessories to outfit a truck, (B) an inflatable rescue boat and all equipment and accessories related thereto, and (C) personal protective equipment ("PPE"), including, but not limited to, turnout coats, bunker pants, boots, helmets, gloves and uniforms; (ii) the acquisition of a new vehicle for the Fire Chief; (iii) the acquisition of a Case backhoe, a Vermeer wood chipper, a Ford F-350 truck and a dump truck with salt spreader for use by the Department of Public Works ("DPW"); (iv) improvements and repairs to the roof of the DPW building; (v) the acquisition and installation, as applicable, of cameras, street signs and other miscellaneous signs for use by the Police Department; (vi) various improvements and repairs to the Police Department building, including, but not limited to, improvements, repairs and upgrades to the heating and air conditioning system; (vii) various improvements and repairs to the Borough's Municipal Building, including, but not limited to, improvements and upgrades to the information technology department; (viii) the acquisition and installation of a surveillance camera security system for use at the Borough's Municipal Building and surrounding grounds; (ix) improvements, repairs and upgrades to various roadways within the Borough, all as part of the Borough's 2019 Riverside Cooperative Road Improvement Project, including, but not limited to, Phase 2 of the construction of LaRoche Avenue (a \$200,000 portion of such improvement being funded by the NJDOT Grant); (x) improvements, repairs and upgrades to the Library building sidewalks to provide ADA accessibility to comply with the Americans with Disabilities Act; and (xi) improvements, repairs and upgrades to the Highland Field Fieldhouse restrooms to provide ADA accessibility to comply with the Americans with Disabilities Act (a \$91,666 portion of such improvement being funded by the CDBG Grant). Such improvements or purposes shall also include, as applicable, all engineering and design work, surveying, construction management services, preparation of plans and specifications, permits, bid documents, contract administration, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto, all in accordance with the plans and specifications therefor on file in the office of the Borough Clerk and available for public inspection and hereby approved.

(b) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,042,210.

(c) The estimated cost of said improvements or purposes is \$1,385,987, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefore being the amount of \$343,777, which amount is comprised of the down payment available for said improvements or purposes in the amount of \$52,111 and the Grants in the amount of \$291,666.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Bergen make a contribution or grant in aid to the Borough for the improvements and purposes authorized hereby which is in addition to the Grants and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey and/or the County of Bergen. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey and/or the County of Bergen shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the Borough as a result of using funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date or as otherwise authorized by the Local Bond Law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer of the Borough. The Chief Financial Officer of the Borough shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer of the Borough upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer of the Borough is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer of the Borough is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Capital Budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses and are improvements which the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said improvements or purposes within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 9.13 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$1,042,210 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$40,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost indicated herein for the improvements or purposes hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 of this bond ordinance and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized herein have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same "Controlled Group" as the Borough, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to any expenditures to be reimbursed. This Section 9 is intended to be and hereby is a declaration of the Borough's official intent to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulation Section 1.150-2, and no further action (or inaction) will be an abusive arbitrage device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized herein used to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in Section 3 hereof will not be used directly or indirectly (i) to "refund" an issue of governmental obligations within the meaning of Treasury Regulation Section 1.150-1(d), (ii) to create, within one year, following the reimbursement of any expenditures with bond proceeds "replacement proceeds" within the meaning of Treasury Regulation Section 1.148-1 of the bonds or any other bond issue, or (iii) to reimburse the Borough for any expenditure or payment that was originally paid with the proceeds of any obligation of the Borough (other than borrowing by the Borough from one of its own funds or the funds of a member of the same "Controlled Group" within the meaning of Treasury Regulation Section 1.150-1(e)). The bonds or notes authorized herein to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in Section 3 hereof will be issued in an amount not to exceed \$1,042,210. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of Section

150 of the Code and Treasury Regulation Section 1.150-1. This provision will take effect immediately, but will be of no effect with regard to expenditures for costs paid outside the permitted reimbursement period set forth in Treasury Regulation Section 1.150-2(d)(2).

SECTION 10. The Borough covenants to maintain the exclusion from gross income under Section 103(a) of the Code of the interest on all bonds and notes issued under this bond ordinance.

SECTION 11. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.”